

## **COMMERCE COMMISSION: CONSULATION ON PAYMENTS BETWEEN BANK ACCOUNTS: ANZ'S RESPONSE TO THE REQUEST FOR VIEWS ON PAYMENTS MADE OVER THE INTERBANK PAYMENT NETWORK**

- 1 ANZ Bank New Zealand Limited (**ANZ**) welcomes the opportunity to comment on the New Zealand Commerce Commission (**Commission**) request for views on payments made over the interbank payment network (**Review**).

We believe New Zealand already has an open, competitive, innovative and efficient interbank payment network, with a range of participants, numerous innovations and a forward agenda that will move New Zealand's customer service propositions into a safe and secure and innovative digital experience.

- 2 ANZ responds to the questions set out in the Review in Appendix 1 of this submission. We consider there is no justification for further regulation (i.e. designation) for payments made over the interbank network in New Zealand currently. We consider it worth highlighting four key themes that run through our responses:

- 2.1 the regulatory environment is pivotal to understanding and assessing access, competition, innovation, efficiency, safety, and resiliency of a payments network and ANZ is supportive of ongoing development and enhancement of the payments landscape. However, it is not clear just what problem is trying to be solved.
- 2.2 we agree customer demand profiles are constantly changing and interbank payment network outcomes must add value if they are to advance New Zealand's existing payments environment. In contrast the focus of this Review is obscured by the excessively broad scope, e.g. from API standards, consumer data right, SBI rules, real-time payments, intrabank, interbank, etc and when other regulatory initiatives are already advancing this broad spectrum we suggest the scope is revisited and associated intent clarified.
- 2.3 similarly, access, competition and innovation are also shaped by New Zealand's size and the associated economic environment. While monitoring international trends are considered by the Commission, such comparisons do not provide reliable evidence that New Zealand's interbank payments network is closed to new entrants, is not competitive, or innovative or is inefficient. We consider that these broader factors have been underemphasised in the Review.
- 2.4 We believe that customers are well served today.

We appreciate the Commission's aim is to promote an environment for new entrants and payment networks in New Zealand. While comparisons and views have been expressed on the perceived issues of the current environment the Review does not present any clear indication of how designation will deliver any substantive value and/or certainty over and above what is already anticipated.

- 2.5 For example, MBIE's consumer data right (CDR), and Payments New Zealand Limited (PNZ) open API standards, both of which ANZ is fully committed to, will continue to build on an already vibrant environment where new entrants, e.g. Wise can safely launch innovative new options to make (i.e. initiate) bank transfers in New Zealand. Further insight to the challenges associated with CDR are outlined in Appendix 2.

ANZ believes it is important that customers enjoy the price, innovation and quality benefits that competition in the payment's ecosystem can provide. It is equally important that payment services enable customers to spend their money in their

preferred method and businesses be paid with certainty of settlement and that they have high availability, are secure and reliable. ANZ agrees with the Commission that New Zealanders need access to payment services that allow them to be paid and pay for things securely and quickly and, more generally, to participate in the digital age of a modern open economy and have access to simple and efficient domestic services. Global online payment solutions also reflect the consumers demand to access a wider range of products and services, and to shop or transact with merchants regardless of geographical boundaries.

Already global online payment options offer convenience, security, etc and while attractive to consumers they also benefit New Zealand's terms of trade in an increasingly interconnected world.

- 3 Reflecting on the importance of payments to consumers and merchants and the health and functioning of New Zealand's economy, payment services operate under a necessarily complex and conservative regulatory framework designed to minimise systemic risks to New Zealand. While the regulation we are subject to has very important objectives, those objectives are not competition objectives and may result from policy trade-offs (whether made explicitly or not) between these broad regulatory objectives designed to protect the financial system and competition policy objectives. Simply put, regulatory objectives for payment services may enhance competition, impede it or a mix of the two.
- 4 The regulatory environment materially shapes market outcomes, including by affecting providers' ability and incentives to offer products and services, and the cost of participating in relevant markets. For example:
  - 4.1 prudential regulation affects the ability of new banks to enter the market and the costs of participating in the market:
    - (a) prudential regulation is designed to ensure a stable and trusted banking system, which plays a critical role in the economy. This regulation has ensured that New Zealand has not been exposed to bank failures in the way other jurisdictions have (the United States and Switzerland most recently) while at the same time;
    - (b) the requirements are deliberately demanding on financial institutions, to ensure reliability and security of payments and
    - (c) ensuring customer protections are in place, sustaining trust in banks/financial systems and associated redress and monitoring measures are in place.
- 5 While we acknowledge the Commission has provided an overview of its proposed powers in this Review, we consider its importance and overlap with Reserve Bank of New Zealand's (RBNZ) Financial Market Infrastructure Act (FMI Policy) is underemphasised. In our view the regulatory framework is the primary determinant of the market that creates incentives and mandates conduct in many aspects of the supply of payment products and services.
- 6 We encourage the Commission to take account of the full range of regulation, environment and customer preference that affects payment outcomes, and to acknowledge the (often competing) objectives of regulation and competition when considering recommendations that might advance the objectives of access, competition innovation, efficiency and broader stability objectives associated with the New Zealand interbank payment network/system. The balance between the desirable objectives of financial system regulation and the impact that regulation has on competition is delicate and small changes in one area may have large, unexpected outcomes in another.

***Even where it does not directly shape our competitive payment conditions, regulation is an important part of New Zealand's payment ecosystem***

- 7 Regulation, and particularly ongoing changes in the regulatory environment, also has indirect impacts on competition and market outcomes that we believe are relevant to the Commission's assessments.
- 8 All regulatory change creates some uncertainty, about impacts to operating costs and about how regulation will be implemented or enforced. But in addition, complying with the changing regulatory landscape not only directly affects competition to supply payment services, but often requires significant system changes within ANZ. It also demands non-discretionary technology (and other) investment that could otherwise be spent on other innovations.
- 9 This is not merely a matter of resource availability. Even if resource is available, payment system constraints can mean that compliance with regulatory change results in payment systems being unavailable for other innovative initiatives.
- 10 The key current example is the RBNZ Outsourcing Policy (BS11), which requires larger banks to have the legal and practical ability to control and carry out outsourced functions. The objective is to minimise the potential impacts of the stress or failure of a larger bank, or a service provider to a larger bank, on the wider economy and to preserve options for resolving larger bank failures. BS11 was approximately a 5-year programme of work for ANZ at a cost of more than \$500m. It is important to note that Outcomes A and D are heavily weighted towards payment services.
- 11 Other examples of recent and current regulatory change include payments system changes allowing for 7-day payments (SBI365 – an innovative service free of charge), Prescribed Transaction Reporting (introduced as part of changes to the Anti-Money Laundering and Countering Financing of Terrorism Act 2009), the Retail Payment Systems Act 2022, and readiness and preparation for negative interest rates.
- 12 The Commission should consider whether regulation creates a prescriptive framework for payment services that drives simplicity and homogeneity rather than innovation.

**The economic environment shapes competition and market outcomes**

- 13 Competition and market outcomes are also materially shaped by geopolitical and economic conditions and disruptions, as well as resulting monetary policy. These features are underemphasised in the Review and should be considered when assessing payment services, payment infrastructures, payments outcomes and competitive conditions in order to avoid any unintended consequences.
- 14 Accordingly, ANZ does not support intervention at this time and we would recommend the Commission supports PNZ's API Centre Authorisation, to promote partnering and building of an accreditation framework, and continued engagement with MBIE on the development of CDR.
- 14.1 We note that industry engagement has been positive across a complex and detailed new environment. Ideally CDR intends to cover a broad range of use cases and the bill must be designed to provide flexibility for collaborative iteration and risk-based rules.
- 14.2 It is extremely challenging to foresee the complexities and risks associated with the variations and nuances across the different sectors, datasets, use cases and customer expectations. Developing regulations and standards will be complex.

- 14.3 The rapidly evolving landscape for CDR/Open Banking globally, the lack of clear successful precedents to draw from, and a very ambitious scope, means flexibility, continued collaboration with industry and the ability to iterate is key.
- 14.4 Given the often-natural inflexibility of legislation, we consider that the appropriate place to house the requisite detail, is in the regulations and standards. The draft bill must avoid being too prescriptive, as this may restrict improved collaborative risk-based solutions from being developed and adapted through market introduction of services. Areas where this could become an issue include consenting rules, ethical use of data, accreditations tiers and requirements and controls when on-sharing of data outside the CDR
- 15 In summary ANZ believes the market is competitive and open to new entrants and it is not clear from the Commission's Review or elsewhere that there is a payment process missing or a gap in the market needs filling. Looking overseas is not helpful, illustrative or a useful comparison given the different markets and regulatory regimes; and while the regulatory regime shapes the market and those regimes and their valuable goals must be considered by the Commission.

We acknowledge the challenges and limitations but believe that to the extent these create issues now they will be addressed by some combination of CDR, Open Banking and finalisation of the API work which are progressing at an appropriate speed.

In light of all this it is not clear what additional regulation would seek to achieve nor how designation under the RPSA would achieve it.

#### **ANZ's detailed comments on the Review**

- 16 Our more detailed comments on the Review into Payments Between Bank Accounts are provided in response to the Commission's consultation questions outlined in Appendix 1 below.
- 17 Should you require any further information please contact Brian Bonar

## Appendix 1 - Commerce Commission submission questions - ANZ Response:

### Questions on New Zealand's payments between bank accounts landscape

#### 1 Do you agree that Eftpos card use is likely to continue to decline? If not, why not?

ANZ believes Eftpos card decline will continue, albeit at a much slower rate than experienced during the COVID-19 years. There remains a significant base of customers who still use Eftpos cards or pay using the CHQ/SAV option (referred to as domestic Eftpos or Swipe/Dip)

For example, the share of ANZ card transactions at domestic merchants (in-store and on-line) for Swipe/Dip Eftpos transactions in Jul-2023 was 34% of all debit (transaction account) transactions and 28% of all Domestic transactions (inclusive of Credit). This compares to Jul-2022 of 36% and 29% respectively. This accounts for millions of transactions monthly.

Transaction choice is determined by type of card carried, whether merchants accept contactless or surcharge, effectively steering customers to a swipe/dip method of payment.

There remains in New Zealand a significant proportion of merchants that do not accept Visa or Mastercard transactions, which means that Eftpos usage will all continue, even if CHQ/SAV or dip option is used with a Visa or Mastercard card. Currently there are ~8000 ANZ small business customers (10,000 retail sites) who do not accept contactless or credit card payments and only have Eftpos debit only facilities.

The below factors have contributed to the decline in popularity for Eftpos card vs Scheme Debit card products

- change in customer demand is growing in favour of scheme debit due to the richer functionality (e.g. contactless, eCommerce online, subscription services with global merchants who do not reside locally and overseas transactions) with Eftpos used purely at ATMs, as a domestic payment instrument in-store or ATM withdrawals overseas (leveraging Scheme networks via agreements between card issuers and the schemes)
- customer protection is limited when compared to Scheme Zero Liability Policy and associated chargeback capability
- innovation advancements have meant customers have embraced adoption of digital wallets (i.e. Apple Pay & Google Pay) via scheme debit versus plastic cards
- consumer preferences have grown for convenience (contactless payments) and security (secure chip technology)
- commercial realities and associated investment requirements mean limited innovation opportunity for Eftpos cards

In summary the evolution of the domestic, face-to-face only (the original Eftpos proposition) "generation 1" card product, has been progressively superseded by the superior features and global ubiquity of the scheme debit card experience mentioned above.

Innovations associated with scheme debit cards and the associated additional features have enabled customers to choose a card that enables access to all payment methods and channels against their primary transactional account as opposed to having to hold multiple products to access the one account for different scenarios.

The addition of card scheme contactless technology has also provided an elevated consumer experience, speed of purchase and convenience with greater access to new innovations, additional channels for subscription services with international merchants, eCommerce, domestic shopping and overseas travel.

<p><b>2</b></p>	<p><b>Do you agree with our assessment of the factors contributing to the decline in Eftpos card use? If not, why not?</b></p> <p><u>ANZ supports the Commission’s assessment</u>, while noting above a range of factors are contributing to the broader decline of Eftpos cards.</p> <p>The Review also presents a view that innovation in the interbank payments network is lacking, however there is evidence that the more advanced customer protection measures that exist with alternative propositions, such as the scheme debit card, demonstrate advancement of new services available to consumers, e.g. Scheme debit cardholders are afforded much greater protection from the failure of merchant entities and/or any fraudulent or wider illegal practices. More generally we continue to develop a range of internal capabilities that readily assist customers when faced with fraud, scams and more broadly recovery of funds no matter what product they are using.</p> <p>ANZ will also be introducing new digital card services utilising Visa APIs to provide customers with more self-service options around managing their card functionality.</p>
<p><b>3</b></p>	<p><b>What do you see as the barriers to innovation and success for Eftpos?</b></p> <p><u>ANZ views the barriers to innovation are a combination of factors.</u></p> <p>We see few material barriers to ongoing innovation and success for the EFTPOS network (being the Electronic Funds Transfer, Point of Sale networks themselves). Banks have divested their equity interests in the commercial switches that operate these networks, however we continue to actively support these entities as both a card issuer and a card acquirer participant. Any qualifying entity is equally free to join these networks in either capacity.</p> <p>As with any innovation, commercial viability, infrastructure investment (on-going), fraud/risk protection, scalability, merchant and customer demand determine success. Customers and providers need to weigh up and decide how many products can be sustained and what they will be used for when they will all access the same primary transaction account.</p> <p>We note that in many instances the underlying infrastructure is largely same whether it is for a Swipe/Dip or scheme-based transaction (including contactless transactions), however differences may apply in terms of the specific data requirements and associated terminal software. As noted above EFTPOS is the underlying infrastructure for all point of sale transactions processing all transactions.</p> <p>(The Review notes a Worldline view (at 2.19) where “<i>the amount of Eftpos transactions is decreasing to the point where it comes hard to justify the capital outlay to maintain the networks</i>” is interesting when as mentioned above the underlying infrastructure for both products is largely the same with scale, complexity or number of connections to FI’s determined by volume, tokenisation or encryption for security.</p> <p>Eftpos cards and the Swipe/Dip payment method has been very successful, but as noted above has been surpassed by a variety of convenient service-related advancements.</p>
<p><b>4</b></p>	<p><b>Do you agree with our view that the decline in Eftpos card use is reducing the competitive pressure on the debit card networks for in-person payments and that this may have a detrimental impact on consumers and merchants over time? If not, why not?</b></p> <p><u>ANZ does not support the Commission’s view.</u> The key factors are:</p> <ul style="list-style-type: none"> <li>• Recent interchange regulation, by the Commission, has made the environment more competitive</li> </ul>

- Merchant Service Fees (MSF) are lower in NZ than Australia for Swipe/Dip (Free vs charges of ~ 16c per EPAL transaction) and comparable or frequently lower for Scheme Debit
- ANZ has no card fees for Eftpos or Visa Debit cards (fees are aligned for Eftpos and debit cards)
- Consumers can avoid surcharging costs by inserting or swiping their debit card at merchant terminals which often happens due to Merchant steering
- The commission is actively monitoring surcharging post the Retail Systems Bill implementation to ensure interchange regulation benefits flow through to the consumer as intended via lower surcharging, in instances where this has not changed
- There are already opportunities in market for participants to develop and pitch digital alternatives to card generated Eftpos transactions, these need to find the right balance of return vs investment to ensure on-going viability and customer experience

Our customers demand convenience, digitisation, multi use-cases for products such as cards that enable them to shop anywhere and on any channel and protection..

The decline in Eftpos card use is primarily due to customer preference to have one instrument that they can use to cover all their needs - from shopping in-store, withdrawing cash at an ATM, paying with their phone via a digital wallet, subscription-based services from multi-nationals to name a few.

The key distinction is Eftpos is a domestic payment method only and has limited capability when compared to the advancements of global market offerings. Unlike geographies NZ is frequently compared against, these transactions are zero cost to merchants and the provision of the service has and will continue to be supported. We do not believe that this competitive market pressure will diminish, when we overlay the existing designation (on Visa and Mastercard) and with expectation of alternative digital solutions the balance will remain equitable in our view.

The networks themselves remain competitive and supportive of innovation. They maintain open and transparent access and provide a safe and reliable efficient service for all New Zealand.

**5 Do you agree with our view that competitive pressure in the payments between bank accounts landscape could be increased by enabling an environment where payment providers develop innovative options to make bank transfers? If not, why not?**

ANZ is supportive of developing and enhancing the payments landscape however, it is not clear just what problem is trying to be solved. Accordingly, the quantum, the associated effort, the customer demand and a broader risk, access and efficiency assessment has not been outlined in the Review. Without this research or data comparison is subjective and, in our view, not likely to arise or be an area of any perceived demand by customers over and above what is already in market.

ANZ suggests the current landscape, where bank transfers (DCs, APs, BPs and DDs) are exchanged every 30 minutes and settled over the interbank payment network i.e. Settlement before Interchange (SBI), seven days a week, fifteen hours a day, from 9am to midnight is impactful and makes a positive difference for merchants and consumers.

While PNZ are exploring what a real-time payment system may look like there is already evidence emerging in Australia where the peak use is between 9am and 12 midnight, but importantly, we have seen an increase in fraud and scams - so much so that we have had to insert friction back into the process with transaction being held (under certain circumstances) for up to 24 hrs for fraud investigation. New Zealand needs to ensure the right design choices are made in order to protect all customers.

While New Zealand's payment landscape, in terms of customer use, is heavily weighted towards the use of cards, we do acknowledge that replacing payment methods that breach

our Terms and Conditions (Screen scraping technology) is required however we do not believe the Commission can compare in-store and on-line payment methods.

### Questions on the key features of traditional bank transfers

#### 6 Do you agree that we have captured the existing benefits and problems with the traditional method of initiating bank transfers? If not, what other benefits or problems exist?

ANZ believes the Review reflects a rounded view of the high-level optics. We make the following observations:

- Table 3.1 Benefits "Settlement: Eftpos payments, Mastercard or Visa debit card payments will generally not settle until the next day" is incorrect as settlement occurs nightly of the day the merchant facility is settled before the cut-off (generally 10pm).
- Table 3.2 Problems with Bank Transfers "*while bank transfers could be used for in-person payments, typically merchants do not make this option available as it can be cumbersome, and they do not have the ability to verify authentication in a timely manner*". Real time authorisation or authentication is not a feature of bank transfers by design given they are not intended for in-person payments

### Questions on methods to gain access to the interbank payment network

#### 7 Do you agree with how we have described and ranked the different methods for payment providers to access the interbank payment network to initiate payments? If not, why?

ANZ believes that the Review would have benefited from defining the scope of what an interbank payment network includes. It is not clear from the definition as to where we should offer comment.

The examples below provide further context:

The definition of the 'interbank payment network' provided in the Review is confusing: '*This is the retail payment network that bank transfers are initiated on by the consumer or merchant by sending payment instructions directly to the consumer's bank*'

- The definition infers the scope covers the full end to end process from payer to payee and therefore includes all infrastructure and network providers (e.g. ESAS, NZClear, Swift, Telco's), operators, rules and standards, bank systems and channels.
- Is the intent to capture all bank transfer payments, be it business to business, business to government, consumer to government, government to consumer? If so the Review's definition of a Retail Payment states '*Means a payment by a consumer to a merchant for the supply of goods or services*' appears at odds?
- Further disconnect interpretations are noted in terms of what is covered under the Retail Payment System Act (the Act) and alignment of associated definitions would greatly assist in any further scope deliberation. For example;
  - '*retail payment means a payment by a consumer to a merchant for the supply of goods or services*'. So as mentioned above are other flows included?
  - '*retail payment network means the participants, arrangements, contracts, and rules that facilitate a class of retail payment*' So the point made above we believe that the full end to end process is under review.
  - '*retail payment system means the system comprising all retail payment networks*'



- 'service provider, in relation to a retail payment network, means any person that provides or facilitates the provision of payment services in the network (for example, a payment or an infrastructure service provider), but does not include a merchant'

We note that the Review infers that a full end to end view is being sought at 5.13 and it also includes intrabank payments, both consumer and commercial bank transfers, at 5.14, and the broader scope also includes indirect participants, at 5.20.

We acknowledge that the scope of the Act also reaches into governance aspects (Network Rules 5.21) and we are not clear on where the regulatory boundaries start and finish should the Commission proceed with a designation order, e.g. when compared to the current RBNZ oversight.

In terms of access to the interbank payment network we offer the following comment:

- Access to the interbank network is open today. Payments NZ Limited (PNZ) have open and transparent access criteria, which has been agreed with the Reserve Bank of New Zealand (RBNZ) and it does not stop payment providers from entering the system.
- PNZ's API Centre are also providing indirect access for 3<sup>rd</sup> parties creating the ability to initiate and request a payment from consumers. We believe the commission should focus their efforts here rather than SBI as the complexities, risks and barriers are complex and as an industry how do we best leverage the existing developments via an authorisation.
- RBNZ are reviewing their access policy and criteria associated with opening an Exchange Settlement Account (ESAS) and ANZ questions why the Commission would not allow this consultation to be completed before progressing any further regulation across the retail payment network. Noting PNZ are also awaiting the outcome of this consultation as their access criteria closely follows that of RBNZ, which is based on the principles of systemically important payment systems.
- RBNZ are also in the process, under the FMI policy, to determine if SBI should be designated.

Again it is not clear why there would be two sets of designation required on one entity, and on one rule set. And just how the two regulators would work in tandem is not included in the Review.

We would welcome further clarification on how the regulatory oversight will work and which aspects of the interbank payment system (and intrabank payment system) are in scope.

## **8 Are there other key features of the payment initiation network access methods you would like to draw to our attention?**

ANZ notes that the Review refers to levels of innovation in other markets and infers that New Zealand is not progressing at the same rate (2.20).

There are a range of reasons which make such comparisons subjective unless the comparable elements are fully understood. The Review does not dive into such detail such as the benefit analysis to consumers and business and we are concerned the Commission may be comparing apples with oranges which can result in sub-optimal outcomes.

For example, access, competition and innovation are shaped by New Zealand's size and the associated economic environment. While monitoring international trends are considered, such comparisons do not provide reliable evidence that New Zealand's interbank payments network is closed to new entrants, is not competitive, is not innovative or is inefficient. We consider that these broader factors have been underemphasised in the Review.

Has the Commission conducted an aggregated country versus country comparison and if so can this review be shared?

ANZ notes it is difficult to make accurate comparisons of innovation between jurisdictions by simply by looking at whether certain products or services have emerged in some markets and not others. The innovation that arises in a market will be a function of a number of factors including obvious factors such as market size, and others such as the regulatory settings, the customer needs in that jurisdiction, and the availability of investment funds.

First, the influence of the local regulatory environment on innovation:

- over the last 5 years, a large part of ANZ's digital advancement and focus has been driven by regulatory changes. These are all changes that have been made for important policy reasons, and they have also occupied material time and investment. Regulatory developments have required process changes within the bank's systems, for example, to comply with the introduction of the financial advice changes in March 2021 and CCCFA changes in December 2021, as well as LVR requirements and debt serviceability restrictions. A significant regulatory change that required considerable focus and effort was the RBNZ outsourcing policy (BS11), which required larger banks to have the legal and practical ability to control and carry out outsourced functions. That programme has cost approximately \$580million to date and absorbed our capacity to innovate given the complexity, scale, and difficult timeframes
- the pace, extent and nature of regulatory change in other jurisdictions will be different, which means different influences on innovation. Change can occur without or ahead of regulation. There are examples of jurisdictions where regulation is light and so innovation will not be constrained by the policy frameworks that sit behind regulation. Further, regulation may follow innovation. The work undertaken to date by ANZ in respect of open banking has been done ahead of the upcoming customer data right regulation, and
- in general, regulatory change influences innovation over and above the direct allocation of time and financial investment it requires. This is not a negative, and in many ways can be viewed positively, as supporting regulatory goals. That is, the focus of regulatory changes can also influence the direction of other innovation in the payments sector. For example, the recent regulatory focus in New Zealand on the interbank delayed settlement risk saw the promotion of the settlement before interchange model which removes interbank settlement risk. This innovation has also transcended into 7-day interchange and while industry driven has also driven internal innovation and new services to customers.

Second, the size and wealth of the population and other cultural factors influence the focus of innovation in New Zealand. For example, in Asia in particular, we see the rise of Super-apps that combine financial services with several day-to-day apps, such as person to person payments. To date, we have not seen the same level of interest in these offerings from customers in the US, UK, New Zealand, or Australia.

New Zealand does not yet have a national ID system, which tends to be the basis for digital identity (a key to a digitalised society). We appreciate that the Department of Internal Affairs is developing a Digital Identity Trust Framework, and while it's integration and adoption is some years away in our view we would welcome the Commissions views on how this could be enabled sooner.

As we have an Australian parent, we see and benefit from innovations introduced in Australia, where we consider they are likely to be suitable for and attractive to New Zealand customers. But we also keep an eye on developments offshore and consider whether they would work here. In some situations, having a small agile market can lend itself to being a test arena for new innovations. But on the other hand, large scale innovations, such as real-time payments, may simply not be viable in a small country and population size like New Zealand.

Third, levels and types of government support and investment may differ between jurisdictions. For example, investment by central government groups (e.g. MAS in Singapore) has driven innovation. Similarly, support for fintechs overseas has been driven through specific central programmes for funding of initiatives. This support has ranged from regulatory support to programmes such as sandboxes, technical standards development and compliance, as well as partnering.

Accordingly, options to make bank transfers for in-person and online payments do exist in many of these other jurisdictions, and yes super-apps and the likes do compete with other options for payments between bank accounts. However, we consider New Zealand has a balanced approach towards innovation and when all things are considered the interbank payment system is open, efficient, innovative while also being safe and secure for consumers.

### Questions on the environment required to support innovation in options to make bank transfers

**9 Do you agree that these API related requirements are sufficient to enable an environment where payment providers can develop innovative options to make bank transfers? If not, why?**

ANZ has been a strong and supportive advocate of PNZ's API Centre and the development of API standards that will enable payment providers to initiate payments.

PNZ created the Centre in 2019 and while some may argue the delivery has been slow, there has been little understanding of the complexities when opening the payments ecosystem without the safeguards and trust that currently exists within today's interbank payments network.

That said PNZ have now mandated that payment initiation will commence in May 2024 and ANZ remains on track to meet that date. The API Centre also has a standards development pipeline, and the delivery cadence is constantly being reviewed to ensure wider ecosystem demands are met, while not placing the payments system, or the consumer at risk. We recognise that payments are both a public good - essential for efficient and safe operation of the economy - and a network service. Payment innovation cannot rely solely on API related requirements as payments really depends on both payer and payee.

With the API Centre already having open access we recognise there is still further work required to enhance and standardise the partnering and accreditation framework. We anticipate that the API Centre will apply to the Commission for an authorisation to advance this work and we would value the Commission's input to enable a timely outcome.

This will ease the complexity for all parties as they strive for being market ready. As we know Bank Transfers have not been designed for indirect 3rd party access and we make note of the ongoing and measured change required to ensure each use case is technically, operationally, commercially and fit for customer use (including protections etc).

The current industry focus remains on online payments and while still developing into an already mature market the API Centre is making solid progress. We note that no overseas Open Banking regulatory regime have enabled an enduring payment to any account. Simply it has been too risky. Therefore, a strong customer proposition, with commercial value for all that balances risk will drive a long-term sustainable model.

### Questions on the benefits from a more competitive and efficient interbank payment network

**10 Do you agree with our view of the long-term benefits to merchants and consumers from the development of innovative options to make bank transfers? If not, why?**

ANZ agrees with the Commission's long-term view, however any proposed acceleration will not necessarily equate to better outcomes in the short-term.

As the Review notes the Commission supports the work of PNZ and MBIE and calls out specifically that once the Customer and Product Data Bill (CDR) is implemented this would overcome some of the barriers preventing payment providers from gaining efficient access to the interbank payment network. We agree.

It is not clear how the Commission's regulation-making powers can support the work of the industry and government and other regulators in a complementary manner. It would be helpful if the Report had presented an alternative view and specified options for consideration, e.g. when compared against that being progressed by PNZ and MBIE, however

we recognise this may arise at a later stage should the Commission wish to pursue further regulation.

In this context the Review provides little detail on how the regulatory regimes would work together, e.g. how would a memorandum of understanding work across a broad spectrum of activity, what would be in scope, be it system, infrastructure, rules, standards, product, consumer, business, or Government related payments and who would have oversight of what, e.g. penalties, licences, timelines, customer protection, stability, etc.

We would welcome further engagement on any proposed new regulatory dynamic.

We also note that- clauses; 4.4.1 (Ability to use) and 4.4.3 (Ease of Use) are not material problems that exist today in the in-store environment. In our view current eftpos and scheme solutions meet current customer expectation. Potentially overtime these may be bettered with API and account to account services (this would not be easy today given focus on Online One-off payments) and/or scheme solutions will also innovate to meet changing customer expectations.

Cost to merchants needs to be balanced against convenience and protections to consumers with current solutions.

And the risk that Visa and Mastercard credit transactions may eventually not be accepted by some merchants could be detrimental to some consumers that have a need for payment by credit.

## Questions on industry open API standards

### 11 Do you consider that the existing industry open API standards are a good starting point to enable innovative options to make bank transfers?

ANZ believes the API Centre and their associated standards form a solid base from which to help shape New Zealand's open data economy and associated CDR regime.

We recognise there are limitations and challenges without regulation being in place, e.g. partnering, accreditation and liability frameworks, however the Centre is still maturing, and a balanced view has not been presented in the Review, e.g. readiness expectations from some sectors have not accounted for solving the above factors, or positioning what it would mean for the consumer should something fail.

While international examples are often viewed as comparing apples with oranges the UK standards only started to observe open banking payments activity some 5 years after implementation. And we believe these relate to eCommerce transactional activity rather than point of sale

We also note that significant innovation has occurred in the NZ market without the need for API standards. Ultimately ANZ believes that market demand will drive innovation and that the APIs may assist in the delivery.

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### 12 Do you consider the future of industry open API standards will enable innovative options to make bank transfers?

ANZ believes the future remains positive. Banks have committed to May 2024 for payment initiation market readiness and already we are observing examples on a small scale, e.g. Online Eftpos.

However we do note that there is no essential connection between the two. It is possible that open API standards can be very successful in New Zealand without an increase in the innovativeness of options to make bank transfers. It is also possible for there to be a large and innovative range of options for bank transfers that are not widely adopted or not viable long term. Creating an informed balance will ensure value is obtained for all parties when standards meet customer demand.

While the current focus is on online payments only, more generally any demand will see the development of open payment and data services. Again noting the need for end-to-end use case development.

**13 What gaps are there in the open API standards for innovative options to make bank transfers?**

ANZ believes the pre-eminent opportunity, which is being discussed at the Centre, is not technical, but business orientated. For example if the industry is to deliver a frictionless scalable service, the following themes will need to be considered if customers and merchants are to receive a ubiquitous service, e.g. AP's, DC's, BPs and DDs

- currently each bank develops their own rules based on their risk appetite
- customer duty of care forms a key plank as banks need to operate safely within existing regulation and policy. Service does not have inherent customer protections disclosure and education will remain key. Customer experience requirements and disclosure need to clear - note ANZ includes mandatory experience and disclosure requirements on all 3rd parties.
- operational and commercial/partnering models must include fraud, customer protections, liability etc. This has been the biggest challenge to progress and is the prime reason for the API Centre's pending Authorisation request to avoid Commerce Act risk (which resides due to no CDR regulatory overlay). We believe that the Commerce Act is not perceived as outlined in the Review and this is supported by external legal advice. That said the Authorisation request will enable the industry to progress.
- 3rd party maturity to manage fraud and scams will require development if customers are to be protected.
- emphasis on the need for strong controls around participation. We refer to the Customer Product and Data Bill for - further risk associated views across intermediaries, 4<sup>th</sup> parties, business and merchant onboarding, to name a few. Further ANZ views are captured in Appendix 2 below.

Technical standards are easy, developing an open payment service is complex.

ANZ notes there are further opportunities to enhance the API Centre standards. Currently the implementation of v2.1 of the standards limits use cases to domestic payments that requires the customer to approve/consent to each payment in their banking app.

In v2.1 the only mandatory standard to approve each payment is using a redirect method. Under this approach, when a customer wants to pay for goods or services they are redirected from the merchants/business checkout processes to a new pop-up window or app for the customer to authenticate into their Banking app, in a web scenario the customer is usually prompted for their banking credentials.

This introduces:

- significant friction for customers through the redirect process and one-off approvals - We note that the UK mandated app-based approvals shortly after launching open banking for payments because merchants/business were not happy with the high-friction web-redirect method. This effectively rules out any point of sale or customer not present use cases, therefore limiting use cases to online ecommerce. In addition each use case introduces new risks, liability and customer experience and protection considerations that need to be worked through in order to provide an open service that can support that use case.
- a high-risk pattern that could lead to increase fraud through fraudsters impersonating websites and apps to acquire customer credentials for identity and account takeovers.

New options must avoid friction, but this must be balanced with customer protections. Looking ahead there are a range of future opportunities that need to be worked through together to ensure this balance is achieved, these are not limited to:

### **Providing a superior payment approval/consent experience**

- Decouple consent in v2.2 will allow merchants/business to send a payment request directly to the customer's banking app, customers open their banking app and approve the payment. There is no redirect.
- In our view this provides a superior approval/consent experience, reduces risks and enables a wider range of use cases. For example, the customer does not need to be present enabling payment requests to be sent for upcoming payments such as bills, subscriptions and invoices.
- The leading open payment eCommerce services in market today such as Online Eftpos use decoupled consent.
- ANZ currently only offer decouple consents for our open payment service ANZ Payment Requests.

### **Move from one-off payments requiring the customer to approve each payment to an enduring payment consent**

- Friction will remain at point of sale as each payment must be approved in app, slowing checkout times, especially when compared to cards.
- Enduring payment consent allows customers to approve payments from a merchant/business once within their defined rules. This is a complex service technically and introduces significant risks and customer protections that need to be worked through and developed, noting other jurisdictions have not included enduring payment consent in Open Banking / CDR regulation.

### **Other changes to support different payment use cases**

- v2.1 to v2.3 only support single sign accounts so eligibility will be limited to retail and less complex business accounts. Multi-auth payment standards are planned for v3 that will enable more complex business accounts.
- Different use cases will require different customer experiences, disclosure, operational requirements, and rules to develop a standardised open service offering.

Examples that will current limit use cases and adoption include:

- There are currently limitations on the flexibility to provide different expiry times for payment scenarios. eCommerce is currently 7mins. Other use cases will need to be different such as subscriptions or recurring payments which will need a longer expiry. Potentially 7 – 30 days.
- There is no ability for 3<sup>rd</sup> parties to remove a payment request that was sent in error, cancelled, or superseded.
- No refund capability, other than the ability to retrieve the account used for a manual refund.
- There are no clear requirements on performance and reliability. We have undertaken some tests, however extensive work and investment would be required to support a transition of volume from existing channel, e.g. BPs and point of sale and scheme.

## **Questions on the key barriers preventing efficient access to the interbank payment network**



**Do you agree that the key barrier preventing payment providers from gaining efficient access to the interbank payment network is that the banks have not universally built open APIs? If not, why?**

ANZ does not support the Commissions view. Banks can easily build API services, but commercials and risk management practices are unclear, which affects both deployment to partners and investment. Additionally, a lack of compelling demand from customers in part due to their comfort with existing mature payment mechanisms, which has limited investment towards enabling payment providers.

- The New Zealand interbank payment network has had open access since 2010. APIs are not required to join the interbank payment network and while there are a range of options that cater for both big and small participants, to transact, there are no barriers to entry.
- Entities such as PNZ, SWIFT and RBNZ all have clear and transparent access provisions which are in line with the Bank for International Settlements Principles for Financial Market Infrastructures (access principle 18 and 19 refer).
- We also note that RBNZ are reviewing access to their Exchange Settlement Account System (ESAS) with the intention to open up access in early 2024. The outcomes of this review will likely impact PNZ's access criteria for SBI and high value clearing streams.
- The RBNZ access review and associated outcomes may also flow through the PNZ's API Centre access provisions, however outcomes remain unknown at this time, and we acknowledge the Centre is still developing their broader ecosystem model, e.g. partnering, standards and the complexity associated with gaps and opportunities mentioned above, need to be solved if we are to develop a safe and secure service.

The Review uses the term 'efficient' however the term has not been quantified so we are unable to apply a relative measure.

For example the Review states: *"The most efficient manner to access the interbank payment network is via open application programming interfaces (APIs)"* but based on what criteria?

There are also a range of references without substantiation or measure, including, but not limited to; cost, safety, customer experience, fraud, liability, risks, customer protection, merchant reconciliation, etc.

The Review also references that innovations options, under the banner *"Ease of use (4.4.3) in that the process of initiating bank transfers should be more efficient, by removing the requirement to enter 16-digit bank account numbers, which will reduce the risk to consumers of incorrectly paying the wrong account and increase the speed for the consumer to initiate the payment"* is based on what analysis?

ANZ would welcome further exploration into a range of efficiency references in Chapters 4 and 5 as many have not been substantiated.

Importantly we believe that the regulatory environment presents the most significant condition of entry.

- prudential regulation sets requirements to ensure the stability of providers, ensuring the stability of the financial system. This objective is highly valued, given the importance of banks to New Zealanders, the wider economy and the payments system as a whole
- prudential regulation also makes entry, at least for a registered bank, challenging. RBNZ largely determine these requirements for entry into the payments systems and the impacts of these regulatory conditions of entry are also more broadly felt. Many of the new entrant providers, e.g. 3<sup>rd</sup> party providers give rise to higher regulatory burdens than perhaps used to.

**15 Do you agree that the main reason the banks have not universally built open APIs is due to the uncertainty of commercial incentives for them to do so? If not, why?**

	<p><u>ANZ is currently building open standardised industry APIs. last year ANZ launched our first open banking payment service 'ANZ Payment Requests' with Worldline online eftpos our first approved third-party service.</u> Further, we are committed to closing out the complexities outlined in question 13 above and remain on track for delivery in 2024.</p> <p>As with any initiative or new customer service offering we need to ensure it is fit for purpose. As mentioned above customer experience, operational and commercial/partnering models form part of the equation. This has been the complex challenge and as mentioned above this is the prime reason for the API Centre's pending Authorisation request to avoid Commerce Act risk (which resides due to no CDR regulatory overlay).</p> <p>We consider that one of the other reasons not expanded upon within the Review is the significant investment required to meet legislation and regulatory requirements in banking (e.g. BS11, CCCFA). We acknowledge that these initiatives have taken priority over the development of open API standards and we suspect other banks and associated demand has seen progress hampered.</p> <p>We note that in the absence of clear and timely regulatory requirements, only partial success has been achieved. It would be fair to reflect that other countries have struggled even with regulation and New Zealand has been fortunate to learn from other countries</p>
<p><b>16</b></p>	<p><b>Do you consider that the industry implementation plan creates sufficient certainty that the banks will build the open APIs? And do you consider that the minimum delivery dates are appropriate? If not, why?</b></p> <p><u>ANZ believes there is sufficient certainty</u> with the ANZ, ASB, BNZ and WBC all committing to the payment initiation and account information dates, by May 2024 and November 2024 respectively and Kiwibank following in 2026. This will capture over 90% of the consumer banking market in 2024.</p> <p>The API Centre went through an extensive consultation period with API Providers and 3<sup>rd</sup> parties who reached agreement on the mandated implementation framework and the associated dates. ANZ remains on track to meet these delivery timeframes.</p> <p>It is not clear on what basis the Commission believes that 'these dates are not ambitious enough' and we would welcome further insight on what the Commission believe the dates should be and how it expects the API providers and 3<sup>rd</sup> parties to meet any new requirements.</p> <p>ANZ acknowledges that the APIs enabled by the industry, banks and 3<sup>rd</sup> parties are only one element of a successful and growing ecosystem around payments and data sharing. Other dependencies such as commercial viability, risk allocation, standards alignment and ecosystem management are now presenting greater challenges and opportunities.</p> <p>We believe the minimum delivery dates are adequate for an initial activation. However, there are essential elements that will need to be considered and developed to enable a wider range of use cases in a safe and secure way as noted in Q13.</p>
<p><b>17</b></p>	<p><b>Aside from the network access issues, are there other issues with the interbank payment network that reduce competition or efficiency? For example, the speed of payments or amount of information attached to payments?</b></p> <p><u>ANZ has not been able to establish a clear understand of the problem trying to be solved and just what the scope of the Review entails.</u></p> <p>We understand the Commission's view the Retail Payment Systems Act applies to anyone who buys a product or a service and covers all types of customer facing channels, a range of domestic payment products, while also suggesting the interbank payments network, by definition, would include the products and services provided by the financial market infrastructure operators such as PNZ (SBI) and RBNZ (ESAS and NZClear), Swift and network providers. If we were to opine across any of these areas we would be seeking more clarity as to why.</p>



While the Review infers the Commission's priority is to improve consumer to merchant options at point of sale, via an API offering, we do not believe further regulatory attention, apart from progressing an authorisation, is warranted ahead of CDR. We also appreciate CDR has a far wider scope than banking.

If the Commission believe a payments focused regulatory overlay will accelerate and open access, increase competition, fast-track innovation, improve efficiency, reduce cost, increase speed without drawing out any unintended consequences, in terms of customer protection, safety, reliability and trust of the interbank payments network then we would be open to discuss and understand the quantum the addition regulatory oversight would bring and to better understand the value over and above what is already in train by RBNZ and MBIE in particular.

The regulatory environment is also central to understanding and assessing competition to supply retail (and wholesale) payment banking services

Reflecting the critical importance of payments to consumers and merchants and the health and functioning of New Zealand's economy, payments operate under a necessarily complex and conservative regulatory framework designed to minimise systemic risks to New Zealand.

While the regulation we are subject to has very important objectives, those objectives are not competition objectives and may result from policy trade-offs (whether made explicitly or not) between these broad regulatory objectives designed to protect the financial system and competition policy objectives. Simply put, regulatory objectives for payments may enhance competition, impede it or a mix of the two.

While we acknowledge the Commission believes intervention will addresses several perceived issues the regulatory framework in the Review and its importance is underemphasised. In our view the regulatory framework is the primary determinant of the market that creates incentives and mandates conduct in the safe supply of payment services.

We encourage the Commission to take account of the full range of regulation that affects market outcomes, and to acknowledge the (often competing) objectives of regulation and competition when considering recommendations that might advance the objectives of competition. The balance between the desirable objectives of financial system regulation and the impact that regulation has on access, competition, innovation, efficiency is delicate and small changes in one area may have large, unexpected outcomes in another.

Even where it does not directly shape competitive conditions, regulation is an important part of the payment's ecosystem both here in New Zealand and globally

Payment's regulation, and particularly ongoing changes in the regulatory environment, also has indirect impacts on competition and market outcomes and we believe should form part of the Commission's assessments.

All regulatory change creates some uncertainty, about impacts to operating costs and about how regulation will be implemented or enforced. But in addition, complying with the changing regulatory landscape not only directly affects competition to supply payment services, but often requires significant system changes within ANZ. It also demands non-discretionary technology (and other) investment that could otherwise be spent on other innovations.

This is not merely a matter of resource availability. Even if resource is available, system constraints can mean that compliance with regulatory change results in systems being unavailable for other innovation across the payments ecosystem.

The key current example is the RBNZ outsourcing policy (BS11), which requires larger banks to have the legal and practical ability to control and carry out outsourced functions. The objective is to minimise the potential impacts of the stress or failure of a larger bank, or a service provider to a larger bank, on the wider economy and to preserve options for resolving larger bank failures. BS11 was approximately a 5-year programme of work for ANZ at a cost of more than \$500m. And payments reside at the heart of the RBNZ's Outsourcing Policy, noting outcomes A and D in particular.

Other examples of recent and current regulatory changes include, payments system changes allowing for 7-day payments (SBI365), Prescribed Transaction Reporting (introduced as part of changes to the Anti-Money Laundering and Countering Financing of Terrorism Act 2009), the Retail Payment Systems Act 2022, and readiness and preparation for negative interest rates.

The Commission should consider whether regulation creates a prescriptive framework for the offering of payment services that drives simplicity and homogeneity rather than innovation.

The economic environment also shapes competition and market outcomes

Competition and market outcomes are also materially shaped by geopolitical and economic conditions and disruptions, as well as resulting monetary policy. These features are

underemphasised in the Review and should be considered when assessing market outcomes and competitive conditions:

- the RBNZ has an important role in managing New Zealand's payments and currencies systems,
- The Commission has yet to explore the way economic conditions, including changes in monetary policy, affect competition and market outcomes - ANZ considers it important that their influence is considered in any future analysis.
- Consistent with the Commerce Act, a key focus for this Review should be the inclusion of the factors that may affect competition for the supply or acquisition of payment services, i.e. expanding on the underlying competitive conditions themselves
- We also consider that, irrespective of the presence of disruptive competitors, innovation has and will continue to occur due to the continued improvements and competition between established competitors and demands from our customers.
- Further, we consider it appropriate to narrow the focus of this Review to properly assess competition in the timeframe allocated. While we appreciate this Review is more of a fact-finding Review further consideration should be given to each product category, all infrastructures, all regulations, rules, standards, and the associated roadmap before intervention is determined.

We believe there is significant innovation in the New Zealand banking and payments industry. We recognise the role of digital disruptors in banking, in New Zealand and overseas. We accept that the presence of disruptive competitors can encourage innovation.

We also caution against a view that digital innovation and digital disruption are the only forms of payment innovation. Innovation is broad and is applied and evidenced in many areas of the financial services industry. Innovation can be evidenced in opportunities, developments, and enhancements undertaken through a combination of fintech, modern data, and platform plays amongst others

Furthermore, payments innovation in banking is not always obvious to customers, or considered within the scope of such Reviews – an example of this is the significant advancement in fraud detection

We consider open banking is likely to positively impact competition on supply of payments and broader banking services. In our view open banking has the potential to do the following:

- facilitate additional innovation, in payments and including new banking-adjacent services and innovations to address customers' financial needs. Through secure APIs and consented sharing of customer data held by banks, fintechs, large technology-based businesses and related industries can develop innovative or ameliorated services.
- For example, in markets that have adopted open banking we understand there has been growth in personal financial management tools (such as budgeting apps). 'Screen scraping' and sub optimal- service offerings will disappear.

We acknowledge that the prospects of success of open banking depend largely on its settings

- Development and uptake of open banking may be slow, based on overseas experience and the importance of developing and implementing an effective and secure regime (particularly considering the sensitivity of the payments and information handled).
- We understand that the Australian consumer data right regime has cost Government and the major banks well over \$1bn to implement, and still faces serious issues with

adoption. Accreditation costs, timelines, and ongoing participation costs were cited as key barriers to adoption.

- In Europe, after a slow beginning, we understand adoption numbers are increasing. In the UK, there were 173 accredited parties with offerings in the market at the end of 2022. The UK estimates that 10 to 11% of digitally enabled consumers and small businesses have now used open banking, five years after it went live.
- Given the issues observed overseas, the Australian Government has announced a 'pause' in rolling out the CDR to more sectors, until the issues with banking and energy are resolved. We are working closely with the Government (MBIE) and the industry (PNZ) to implement the required framework to maximise their prospects of success. While open banking's success primarily depends on the regulatory settings adopted under CDR we emphasise it could take some time to become entrenched in terms of customer adoption.
- Even without CDR and the API Centre open API standards there are a range of new innovative examples of actual activity and planned entry into the payment's ecosystem. They include, but not limited to:
  - Revolut: launched in New Zealand in 2023 offering payments services. Revolut also offers cards and bill payment services that are likely to be launched in New Zealand soon
  - Square One: launched in 2021, Square One is an app that provides savings account (which is held on trust in an ANZ account) and payments services for children, aiming to foster their financial literacy and wellbeing
  - Dosh: launched in 2021. It allows users to make payments, and use 'stashes' (like transactional accounts) to organise their money and it offers a Dosh visa debit card, along with QR code capability
  - Wise (formally Transfer Wise): introduced its borderless account product to New Zealand in 2018. In 2019 Wise launched its New Zealand debit Mastercard which is linked to a customer's Wise account

## Questions on efficient partnering between banks and payment providers

### 18 What do you consider are the main barriers to negotiating agreements between banks and payment providers for access to the interbank payment network (assuming open APIs are built)?

ANZ believes the existing partnering model creates significant and costly challenges when establishing bilateral agreements. This is not optimal or sustainable for any party, especially 3<sup>rd</sup> parties who will likely face into a range of different rules, clauses, controls and obligations from each API provider.

These conflicts have been recognised and discussed in depth within the API Centre. Accordingly, the API Centre will seek an Authorisation from the Commission to accelerate a more harmonious and efficient partnering model prior to CDR, which will also assist in the broader partnering model expected under CDR.

Banks also have a range of regulatory hurdles to meet and the associated due diligence processes and controls must be completed to ensure 3<sup>rd</sup> parties have the operational maturity and processes to meet contractual requirements. By creating a safe harbour allows these controls to be softened. But who will take liability? The system CDR, banks, 3<sup>rd</sup> parties or the customer?

We have mentioned this context above, while noting this is not a one-off exercise and there are ongoing overheads to manage and ensure obligations are being met. Often, many new entrants and payment providers are not accustomed to these requirements and often believe that it is banks adding additional barriers, when in fact they are not

Differences in risk appetite, have also emerged during these negotiations, for example: some payment providers operate with no customer protection, limited preventative fraud controls

or standardised rules like scheme PCI DSS, AML, etc. This becomes important when payments are initiated for the purchase of higher risk goods such as cash equivalents gift cards, money exchanges, crypto-currencies all of which are targets for fraud and money-laundering activity.

We also note that it should not be possible for third parties to avoid all CDR obligations by participating via an intermediary - this covers lots of dimensions of the risk aspects of different partnering models. It's not an easy direct model e.g. a merchant connects directly to ANZ.

**19 Does the API Centre's partnering project enable efficient partnering between banks and payment providers? If not, what would be required to enable efficient partnering?**

ANZ believes that the Centre's partnering project and Authorisation request to the Commission is necessary and will enable easier partnering.

We have taken an industry first approach and through the standardising of rules, clarity on risks and liabilities a more efficient outcome will occur.

Accordingly Appendix 2 provides an insight to ANZ's submission on the Customer and Products and Data Bill, and in particular the challenges faced to build a world class and fit for purpose CDR ecosystem. ANZ's insights on all the moving parts of the CDR equation and views on what is required to get a service up and running are captured in our CDR submission to MBIE.

The insights also provide a base context as to why development timeframes have been over many years to deliver such a new service proposition to market, while recognizing safety, security and trust factors. We recognise that any API offering is not about the technical standards, more it is all the broader business and risk factors, e.g. partnering, accreditation, liability, etc. Moving from a closed bank to an open bank is not a simple task and ANZ submission expands on these factors.

The API Centre's partnering project is certainly a step towards greater efficiency in the market. Operational maintenance, testing certification, and partnering management are opportunity areas suitable for a market standard or effective co-ordination by a centralised party. Further central investment in this area could accelerate the value for all participants.

### Questions on the interbank payment network

**20 Do you agree with how we have defined the interbank payment network? If not, how do you consider it should be defined?**

ANZ believes that the Commission needs to take further time to articulate what is in scope and what is not. As mentioned above there are a range of interpretations that could be taken across a range of categories.

We also refer to the many regulatory components mentioned above, including overlap in Q26

**21 Do you see any issues with how we have defined the interbank payment network? If so, what issues?**

ANZ believes that the Commission needs to take further time to articulate what is in scope and what is not. As mentioned above there are a range of interpretations that could be taken across a range of categories.

We would welcome further engagement on questions 20 and 21 to better understand the problem and then what elements, of the end-to-end payments' ecosystem, are in scope and if regulation is enacted what value it will add, over and above the existing activity.

<p><b>22</b></p>	<p><b>Do you agree we have captured the correct payment products in the interbank payment network?</b></p> <p><u>ANZ does not have a clear view on the problem and therefore which product(s) is in focus remains unclear.</u></p> <p>The Review appears to focus on the lack of options for person-to-person payments, at point of sale, and therefore this leads to an assumption that a direct credit is the only product in scope.</p> <p>The Review also spreads the consideration across cards products, PNZ’s domestic payments standards, SBI and API Centre, the interbank payments network, to name only some of the components, and without the benefit of further clarity we are hesitant to offer a view which may not be applicable to the problem that is trying to be solved.</p>
<p><b>23</b></p>	<p><b>Do you agree we have captured the correct network operators of the interbank payment network?</b></p> <p><u>ANZ, as mentioned above, seeks further clarification on the definition associated with the ‘interbank payment network’</u></p> <p>We would welcome the opportunity to work with the Commission, and others to clarify and agree the scope of this Review.</p> <p>In particular we are unable to reconcile why the Commission seeks to include BECS and SBI if the focus is indeed only on account-to-account transactions utilising the API Centre’s framework?</p>
<p><b>24</b></p>	<p><b>Do you agree we have captured the correct class of participants in the interbank payment network?</b></p> <p><u>ANZ, as mentioned above, seeks further clarification on the definition associated with the ‘interbank payment network’, which extends to understand which participants are impacted and in what system.</u></p> <p>It would appear the Review’s scope contemplates unregulated entities, participants who are not direct participants of PNZ, participants who are not members of ESAS and NZClear and just how these indirect participants, the operators of these systems, owners of the rules and standards, would be expected to accommodate indirect participants in the interbank payment network and how they would work with direct participants and under what rules.</p>
<p><b>25</b></p>	<p><b>Do you agree we have identified the relevant interbank payment network rules? If not, what other network rules are relevant?</b></p> <p><u>ANZ does not agree with the Commission’s findings, and as mentioned above, seeks further clarification on the scope and definition associated with the ‘interbank payment network’ and the intrabank network.</u></p> <p>For example there are a range of rules and regulations that will require careful consideration if the scope of the Review is end-to-end, e.g. RBNZ’s ESAS BCP, participants internal controls.</p>
<p><b>26</b></p>	<p><b>Do you consider there are any other regulatory requirements in other New Zealand laws that we should take into account in deciding whether to recommend that the interbank payment network is designated?</b></p> <p><u>ANZ suggests that the interconnectivity and overlap with the FMI Act and the Retail Payment Systems Act requires further discussion.</u></p>

While we note that there has been ongoing engagement between the Commission and the RBNZ the future pathway is not clear. We are surprised the Commission is also considering designation of the SBI rules and standards when the RBNZ are already engaged in the designation process, and consideration of SBI with PNZ is in train.

- Accordingly, we also note your statement, under 5.31 "*The RBNZ intends to assess whether these systems are systemically important and should therefore be designated under the FMI Act*" because the assessment is already underway and why does the Commission believe that an assessment will automatically lead to designation under the FMI Act?
- We note that the equivalent system in Australia (Direct Entry) has not been designated so we would welcome the Commission's further views and insights as to why it believes SBI should be designated and that such an automatic statement of intent is provided?
- Despite the RBNZ engagement the Review falls short of providing any detail on how these similar powers, to oversee network rules and set standards for access and disclosure, etc will work should designation occur, either by the Commission, by the RBNZ, or both.

Section 5.32 is also unclear and we do not understand why the section 12 requirement to consult with the RBNZ is not required before making a designation determination, when RBNZ are already assessing SBI and parties have been engaged and work completed? We do not see how this approach will avoid unnecessary compliance costs when significant work and effort has already been completed by PNZ and their participants across both SBI and high-value.

Table 5.1 has a strong preference towards the Commission using its powers across the API Centre's standards, the API Centre's implantation Plan, and associated current API profile developments. Just how the powers and associated submission processes will play out, in terms of timing, vs the current activity within PNZ and within MBIE remains unclear. We also note that the perceived connection into the BECS and SBI rules, which relate to the membership of the API Centre is again unclear. We would be interested to better understand which rules the Commission is referring to?

More broadly have the Commission considered how the AML/CFT laws will impact the protection of the consumers systems? The same consideration may also apply to the Prescribed Transaction Reporting Act and potentially more broadly the impact of APRA regulations on the Australian owned banks.

While also noting further clarity will be required on the overlap that will likely expand into the broader CDR regulations, including the Privacy Act.

## Questions on possible regulatory interventions

### **27 Do you consider that a designation of the interbank payment network is a useful first step towards enabling an environment where payment providers can launch innovative new options to make bank transfers in New Zealand? If not, why?**

ANZ does not believe that the problem or the scope have been sufficiently defined. We therefore believe designation is not required.

The existing commitment to the API Centre's activity, the advancements of open banking capability within ANZ, the developments across BECS and SBI and more broadly the investigation into real-time capability by PNZ sets a healthy platform for the continuation of; open access to the New Zealand interbank payments network, the ongoing support of a competitive payments ecosystem, including innovation, while ensuring the efficiency and safety of customers remains at the forefront of all payment services.

<b>28</b>	<p><b>How effective do you consider our regulatory powers would be at addressing the barriers set out in this paper?</b></p> <p><u>ANZ does not believe that the powers set out under the Act will address the barriers set out in this Review.</u></p> <p>Noting we continue to support further engagement to validate why the Commission believe these wide-ranging barrier issues are a problem and just what elements are in scope is important. We appreciate that there is timing element at play and we would also seek further engagement to better understand how the Commission believes future engagements, if any, are managed in a manner that will drive value for all participants.</p>
<b>29</b>	<p><b>Do you consider that a designation of the interbank payment network, and the subsequent use of our regulatory powers, would promote competition and efficiency in the retail payment system for the long-term benefit of merchants and consumers in New Zealand? If not, why?</b></p> <p><u>ANZ does not believe that the problem or the scope have been sufficiently defined. We therefore believe designation of the interbank and intrabank networks is not required.</u></p>



## **Appendix 2 – ANZ CDR submission insights: ANZ’s executive summary extract (abridged)**

4.1. ANZ acknowledge the objectives of the bill and appreciates the complexities and importance of balancing customer expectations and protections necessary to create and sustain customer trust while effectively managing risks and minimising cost to participate.

4.2. In our view, the draft bill does not achieve this balance and some aspects may lead to poor customer outcomes, and potentially jeopardise the success of the CDR regime. Specifically, there are three critical areas where ANZ recommends changes:

### **4.2.1. Customer protections must go above and beyond the Privacy Act**

Customer protections are essential to create and sustain trust, and trust is critical for success of the CDR regime. If customer protections are set too low, there is an increased risk that customer trust will erode overtime and limit customer adoption. The CDR regime in Australia has introduced 13 privacy safeguards and other prescriptive participation requirements to ensure customers have trust in the CDR regime and control over their data. Some third parties have suggested rules are too prescriptive and costly which has limited third party adoption. The UK experience suggests there is a natural maturity period as propositions are developed and customer trust builds.

ANZ’s own research has repeatedly highlighted the complexity of designing for diverse customers who are concerned about the security of their personal information but have limited knowledge of open banking concepts and may not fully understand the different risks or implications of using open banking services.

It is critical that the draft bill helps customers understand these concepts and ensures clarity in relation to the roles and, responsibilities of each party. Customers must be able to make informed and explicit decisions to participate and know they are protected if things go wrong.

Within the CDR context of data sharing and action initiation services, the Privacy Act alone is not sufficiently sophisticated to ensure the right levels of customer protection are provided.

### **4.2.2. It should not be possible for third parties to avoid all CDR obligations by participating via an intermediary**

There are no clear restrictions around accredited requestors acting as an ‘intermediary’ and on-sharing customer data or action initiation rights to non-accredited parties. This introduces a risk that market participants could avoid all CDR obligations and reduce customer protections.

There also appears to be no controls on reusing previously established connections to support on-sharing to additional parties or use cases.

Without changes there is little incentive for parties other than those that plan to be an intermediary to become accredited. Therefore, we expect that most participation will occur via intermediaries where requirements are less stringent.

Use of intermediaries also introduces different risks and complexity for customers to understand and navigate, especially when it comes to giving their informed and explicit consent.

The draft bill must acknowledge the role of intermediaries, provide flexibility for different treatment of them and it must prevent third parties from avoiding all CDR obligations by participating via an intermediary.

### **4.2.3. The bill must be designed to provide flexibility for collaborative iteration and risk-based rules**

It is extremely challenging to foresee the complexities and risks associated with the variations and nuances across the different sectors, datasets, use cases and customer expectations. Developing regulations and standards will be complex.



The rapidly evolving landscape for CDR/Open Banking globally, the lack of clear successful precedents to draw from, and a very ambitious scope, means flexibility, continued collaboration with industry and the ability to iterate is key.

Given the natural inflexibility of legislation, we consider that the appropriate place to house the requisite detail, is in the regulations and standards. The draft bill must avoid being too prescriptive, as this may restrict improved collaborative risk-based solutions from being developed and adapted through market introduction of services. Areas where this could become an issue include: consenting rules, ethical use of data, accreditations tiers and requirements and controls when on-sharing of data outside the CDR.